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REMINDER: 12-8-05

MORRISON &amp; FOERSTER

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 MORRISON & FOERSTER LLP  
 3811 VALLEY CENTRE DRIVE  
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OFFICE OF PETITIONS

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 In re Application of  
 Eliezer Masliah et al  
 Application No. 09/933,640  
 Filed: August 20, 2001  
 Attorney Docket No. 6627-PA1071

 :  
 : DECISION ON PETITION  
 : UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 22, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c)) for the benefit of the prior-filed PCT application set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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The instant petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of

Application No. 09/933,640

Page 2

the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The ADS filed December 22, 2004 fails to state the relationship of PCT Application No. PCT/US01/05569, filed February 20, 2001, to the above application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) stating the relationship of the prior-filed PCT application to the above application is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (703) 872-9306  
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.



Karen Creasy  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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I hereby certify that this correspondence is being facsimile transmitted to Attn:  
Office of Petitions, the Patent and Trademark Office, facsimile no. (703) 672-  
9308, on the date shown below.

Dated: July 11, 2005

Signature:   
Norman GreenDocket No.: 220002065100  
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Eliezer MASLIAH et al.

Application No.: 09/933,640

Confirmation No.: 6686

Filed: August 20, 2001

Art Unit: 1632

For: DEVELOPMENT OF TRANSGENIC MODEL  
FOR INTERVENTIONS IN  
NEURODEGENERATIVE DISEASES

Examiner: A. Falk

**RENEWED PETITION UNDER 37 CFR § 1.78(a)(3) FOR  
UNINTENTIONAL DELAY OF ADDITION OF PRIORITY CLAIM**

Attn: Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the DECISION ON PETITION (the "DECISION", copy attached) mailed June 8, 2005, from the OFFICE OF PETITIONS, dismissing Applicants' Petition submitted December 22, 2004, Petitioners hereby submit this Renewed Petition to the Commissioner to accept a claim to priority to the International Application No. PCT/US01/05569, filed February 20, 2001, designating The United States of America.

The DECISION indicates the application "... must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications."

Applicants therefore submit concurrently herewith a Preliminary Amendment in compliance with the above-stated requirement.

sd-269325

Application No.: 09/933,640

2

Docket No.: 220002065100

It is therefore respectfully requested that this Petition be granted and the case advanced to publication.

Applicants also request that an Updated Filing Receipt be issued containing the amendment to the Specification in the Preliminary Amendment under the heading:

"Domestic Priority data as claimed by applicant"

In the unlikely event that the transmittal letter is separated from this request and the Patent Office determines that a fee is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952, referencing docket no. 220002065100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: July 11, 2005

Respectfully submitted,

By: 

Gregory P. Einhorn

Registration No.: 38,440

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sd-269325